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Mayor

CITY OF NEWTON, MASSACHUSETTS

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Public Hearing Date: November 10, 2009
Land Use Action Date: December 1, 2009
Board of Aldermen Action Date: December 7, 2009

DATE: November 6, 2009

TO: Board of Aldermen

FROM: Michael Kruse, Director of Planning and Development
Candace Havens, Chief Planner
Benjamin Solomon-Schwartz, Senior Planner

SUBJECT: Petition # **303-09**, MAURY LEDERMAN & LYDIA FINK petition for a SPECIAL PERMIT/SITE PLAN APPROVAL and EXTENSION of a NONCONFORMING STRUCTURE to convert an existing screen porch to a new room increasing the floor area ratio from .61 to .63 at 22 WALTER STREET, Ward 6, on land known as Sec 62, Blk 24, Lot 16, containing approx 4,950 sf in a district zoned SINGLE RESIDENCE 3. Ref: Sec 30-24, 30-23, 20-21(2)(2)b) and 30-15(u)(4) of the City of Newton Rev Zoning Ord, 2007.

CC: Mayor David B. Cohen

The purpose of this memorandum is to provide the Board of Aldermen and the public with technical information and planning analysis which may be useful in the special permit decision making process of the Board of Aldermen. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the Board of Aldermen will want to consider in its discussion at a subsequent Working Session.



Existing structure

EXECUTIVE SUMMARY

The petitioners are proposing to enclose and convert an existing screen porch to a new room in their home at 66 Walter Street. The existing residence is located on a 4,950 sq. ft. lot and is currently nonconforming with respect to Floor Area Ratio (FAR). The proposal will increase the FAR nonconformity, but will not affect any other dimensional measures. The 2007 *Newton Comprehensive Plan* encourages preservation of existing residential neighborhoods, and the Planning Department believes that modestly-sized additions can help to preserve the character of existing neighborhoods while allowing occupants the flexibility to meet the housing needs of today's families. This petition addresses those needs by modifying an existing single-family home with the enclosure of a modest side porch, while keeping in scale with the other houses in the immediate neighborhood.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

Before taking action on this request, the Board should consider whether the increase in FAR is consistent with and not in derogation of the size, scale and design of other structures in the immediate neighborhood and whether or not the change is more detrimental than the existing nonconforming structure.

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The property is located in Newton Centre several blocks north of Route 9. It is located within a Single Residence 3 District (*SEE ATTACHMENTS "A" AND "B"*). The neighborhood is characterized by many single-family detached residences. This neighborhood was originally subdivided for the development of single-family homes in the 1920s. Three-quarters of the lots in the vicinity of this property are between 4,500 and 6,000 sq. ft. in area, which is significantly below the 7,000 sq. ft. minimum lot size for pre-1953 lots in SR3 districts (the larger lots in the area include an area on Parker and Jackson Streets that is subject to flooding and not conducive to additional construction.). The majority of the houses in the neighborhood were built in the Colonial Revival-style and the others are in a variety of early 20th century architectural styles. With the exception of



Neighboring houses on Walter Street

the several houses on lots larger than 15,000 sq. ft., the floor area ratios of the remaining houses range between 0.28 and 0.48 (*SEE ATTACHMENT "C"*). Because of the slope on the petitioners' lot, the basement is included in floor area and the resulting FAR of .61 is larger than the estimated FAR for neighboring houses. It is unclear whether the basements of adjacent houses would also count towards FAR; if they were counted the FAR of .61 might no longer be higher than the neighborhood average.

B. Site

The 4,950 sq. ft. site slopes down towards the rear of the property and contains one single-family residence.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

No change of use is proposed.

B. Building and Site Design

The existing house is a two-story Colonial Revival house with wood shingle siding. The petitioners propose to enclose a 126 sq.ft. screened porch on the first floor. Because a screened porch is not included in the FAR calculation, this alteration will increase the FAR. The siding of the new structure will consist of cedar shingle painted to match the existing house and windows will match the existing windows in the house.

The proposed increase in FAR is from 0.61 to 0.63. The FAR is higher than it appears in part because the lot slopes downward towards the rear and the basement counts as a full story (in accordance with the City's zoning regulations). If the basement area was not counted, the proposed floor area would increase from .41 to .43, which is the range of floor area ratios for houses in the immediate neighborhood. Once completed, the converted porch and expanded structure should appear to be in scale with the neighboring houses.

C. Landscape Screening

The petitioners have not proposed any additional landscape screening as part of the project. Due to the modest nature of the project, addition landscaping should not be necessary.

IV. CITY'S COMPREHENSIVE PLAN

The 2007 *Newton Comprehensive Plan* encourages preservation of existing neighborhoods. The Planning Department believes that modestly-sized additions can help to preserve the character of existing neighborhoods while allowing occupants the flexibility to meet the housing needs of today's families. This renovation should help ensure that the house will be usable for current and future residents.

V. TECHNICAL REVIEW

- A. Technical Considerations (Section 30-15). The Zoning Review Memorandum, dated September 16, 2009 (*SEE ATTACHMENT "D"*), provides an analysis of the proposal with regard to Section 30-15 Table 3. A special permit is required for the construction of a new house that exceeds the allowable FAR included in Section 30-15, Table 1. The "temporary" additional FAR relief, provided by the August 10, 2009 amendment to the City's Zoning Ordinance (*Ordinance No.Z-51*), is not sufficient to allow this project as-of-right.
- B. Other Reviews
1. Engineering. Review by the City Engineer is not necessary for this renovation, as the building footprint will not expand.
 2. Fire Department. Fire accessibility review is not required for an addition to a single-family home.
 3. Historic Preservation. The City's Senior Preservation Planner reviewed the application and determined that proposed work does not meet the threshold for demolition review. The proposed work can proceed without further historic review.

VI. ZONING RELIEFS SOUGHT

Based on the completed Zoning Review Memorandum, dated September 16, 2009 (*SEE ATTACHMENT "D"*), the petitioners are seeking approval through or relief from:

- Section 30-15(u)(4), to construct an addition to an existing house that exceeds the allowable FAR;
- Section 30-21(b), to increase the nonconformity of structure that currently exceeds FAR;
- Section 30-23, for site plan approval; and
- Section 30-24, for approval of special permit.

VII. SUMMARY OF PETITIONERS' RESPONSIBILITIES

This petition is currently complete.

VIII. FINDINGS AND CONDITIONS

When taking action on this proposal, the Committee should determine whether the increase in FAR would be substantially more detrimental to the surrounding neighborhood than the existing structure. The Committee also may want to consider additional findings such as:

- The increase in FAR from .61 to .63 is consistent with and not in derogation of the size, scale and design of other structures in the immediate neighborhood.
- The proposed structure is not more detrimental than the existing nonconforming structure.
- The proposed construction will not increase the footprint of the structure and does not increase nonconformity with regard to any dimensional standard other than FAR.
- The proposed renovations are consistent with the goals of the 2007 *Newton Comprehensive Plan* because it is a modestly sized addition to a single-family residence that helps preserve the character of the existing neighborhood while allowing occupants the flexibility to meet the housing needs of today's families.

Should the Committee wish to recommend approval of this proposal subject upon making the appropriate findings, Planning Department staff recommends the following conditions:

1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this special permit/ site plan approval shall be located and constructed consistent with the plans entitled (plan references to be inserted later).
2. No building permit shall be issued pursuant to this special permit/ site plan approval until the petitioners have:
 - a. recorded a certified copy of this board order for the approved special permit/site plan with the Registry of Deeds for the Southern District of Middlesex County; and
 - b. filed a copy of such recorded board order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. received approval of building permit plans from the Planning Department for consistency with Condition #1.
3. No occupancy permit for the use covered by this special permit/ site plan approval shall be issued until the petitioners have:
 - a. filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect and registered engineer certifying compliance with Condition #1.
 - b. submitted to the City Engineer final as-built, record site engineering, utilities, grading and drainage plans in both digital format and hard copy.
 - c. submitted to the Director of Planning and Development, final as-built plans in digital format.

ATTACHMENTS

- ATTACHMENT A:** *Zoning Map*
ATTACHMENT B: *Land Use Map*
ATTACHMENT C: *Neighborhood Analysis*
ATTACHMENT D: *Zoning Review Memorandum, dated September 16, 2009*

Zoning Map

22 Walter St. and Vicinity

City of Newton,
Massachusetts

Legend	
	Building Outlines
	Single Res. 1
	Single Res. 2
	Single Res. 3
	Business 1
	Business 2
	Business 4
	Business 5
	Limited Manufacturing
	Manufacturing
	Multi-Res. 1
	Multi-Res. 2
	Multi-Res. 3
	Multi-Res. 4
	Mixed Use 1
	Mixed Use 2
	OS/Rec.
	Public Use

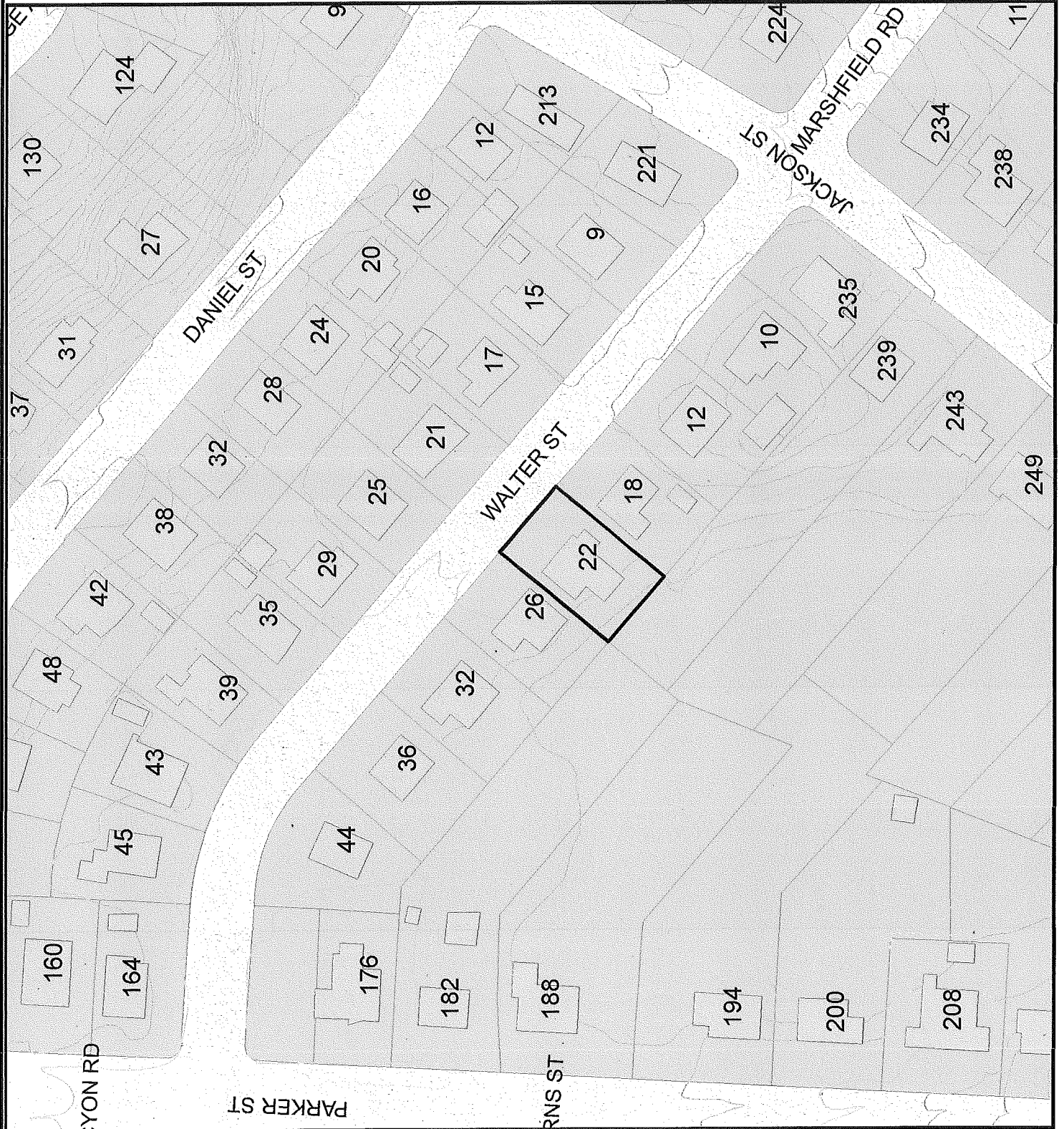
ATTACHMENT A



The information on this map is Geographic Information System data. The City of Newton cannot guarantee the accuracy of the information. Each user of the information is responsible for determining its suitability for their purpose. City department applications base

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MAP DATE: Oct



Land Use Map

22 Walter St.
and Vicinity

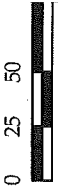
City of Newton,
Massachusetts

Legend

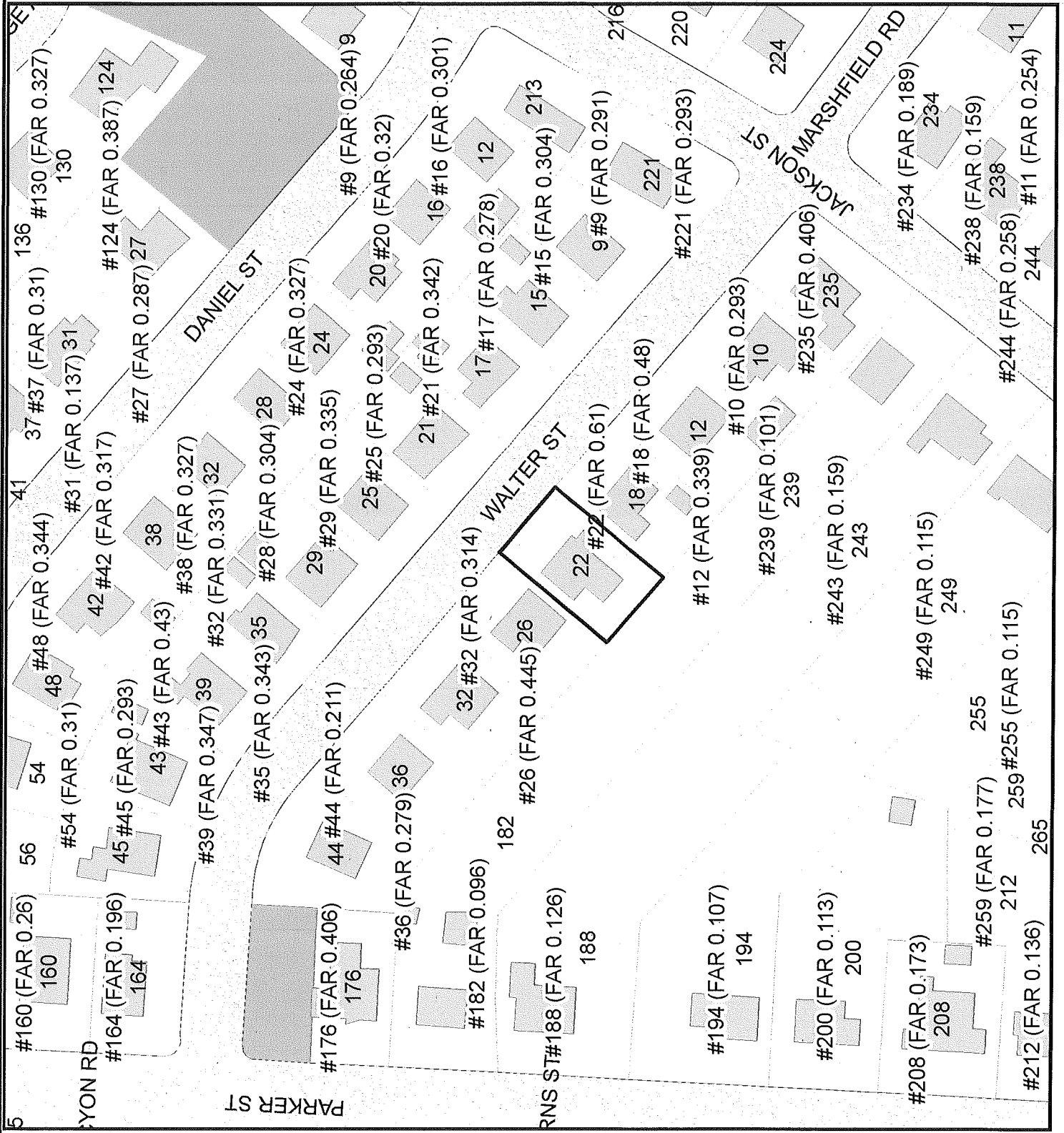
- Building Outlines
- Single Family Residential
- Two Family Residential
- Condominiums
- Other Residential
- Mixed Use
- Commercial
- Industrial
- Vacant Land
- Golf Course
- Open Space
- Private Educational
- Nonprofit Organizations
- Public Housing
- Tax Exempt
- Unspecified



The information on this map is for informational purposes only. The City of Newton cannot guarantee the accuracy of the information. Each user of the information is responsible for determining its suitability for their own purposes. City departments approve applications based on the information provided.



MAP DATE: 06/20/2023

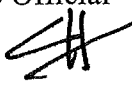


Neighborhood Comparison Chart (Prepared by Planning Department)									
22 Walter Street and Vicinity									
Address	Approx. Yr. Built	Lot Size	# Units	Lot Area Per Unit	Approx. Sq. Ft.	Approx. Sq. Ft. Per Unit	Approx. FAR	Material	Style
16 DANIEL ST	1925	4950	1	4,950	1488	1,488	0.301	Vinyl	Colonial
20 DANIEL ST	1929	4950	1	4,950	1583	1,583	0.32	Vinyl	Colonial
24 DANIEL ST	1930	4950	1	4,950	1620	1,620	0.327	Vinyl	Colonial
28 DANIEL ST	1920	4950	1	4,950	1507	1,507	0.304	Wood Shingle	Colonial
32 DANIEL ST	1925	4500	1	4,500	1491	1,491	0.331	Wood Shingle	Old Style
239 JACKSON ST	1900	15000	1	15,000	1512	1,512	0.101	Stucco on Wood	Old Style
243 JACKSON ST	1928	17596	1	17,596	2798	2,798	0.159	Wood Shingle	Colonial
249 JACKSON ST	1927	17000	1	17,000	1960	1,960	0.115	Vinyl	Colonial
182 PARKER ST	1926	18999	1	18,999	1820	1,820	0.096	Vinyl	Colonial
188 PARKER ST	1935	20220	1	20,220	2545	2,545	0.126	Wood Shingle	Colonial
194 PARKER ST	1920	19810	1	19,810	2126	2,126	0.107	Vinyl	Colonial
9 WALTER ST	1920	4500	1	4,500	1311	1,311	0.291	Vinyl	Colonial
10 WALTER ST	1928	5595	1	5,595	1640	1,640	0.293	Wood Shingle	Colonial
12 WALTER ST	1925	5550	1	5,550	1884	1,884	0.339	Vinyl	Colonial
15 WALTER ST	1926	4950	1	4,950	1507	1,507	0.304	Wood Shingle	Old Style
17 WALTER ST	1925	4950	1	4,950	1374	1,374	0.278	Wood Shingle	Colonial
18 WALTER ST	1930	4950	1	4,950	2378	2,378	0.48	Wood Shingle	Colonial
21 WALTER ST	1928	4950	1	4,950	1692	1,692	0.342	Vinyl	Colonial
22 WALTER ST	1926	4950	1	4,950	3004	3,004	0.61	Wood Shingle	Colonial
25 WALTER ST	1931	4950	1	4,950	1450	1,450	0.293	Vinyl	Colonial
26 WALTER ST	1928	4950	1	4,950	2202	2,202	0.445	Wood Shingle	Colonial
29 WALTER ST	1923	4950	1	4,950	1660	1,660	0.335	Wood Shingle	Colonial
32 WALTER ST	1925	5850	1	5,850	1836	1,836	0.314	Wood Shingle	Colonial
35 WALTER ST	1926	4950	1	4,950	1700	1,700	0.343	Wood Shingle	Cape Cod
36 WALTER ST	1925	5850	1	5,850	1634	1,634	0.279	Wood Shingle	Colonial
Average	1925	8193	1	8,193	1829	1,829	0.289		
22 Walter Proposed		4,950	1	4,950	3,130	3,130	0.63		

Zoning Review Memorandum

Dt: September 16, 2009

To: John Lojek, Commissioner of Inspectional Services

Fr: Eve Tapper, Chief Zoning Code Official
Candace Havens, Chief Planner 

Cc: Michael Kruse, Director, Department of Planning and Development
Maury Lederman and Lynda Fink, property owners
Ouida Young, Associate City Solicitor

RE: Request to allow an increase in FAR

Applicant: Maury Lederman and Lynda Fink

Site: 22 Walter Street	SBL: Section 62, Block 24, Lot 16
Zoning: SR-3	Lot Area: 4,950 square feet
Current use: Single-family residence	Proposed use: Single-family residence

Background:

The subject property consists of a 4,950 square foot lot currently improved with a single-family residence. The applicants are proposing to enclose an existing screened porch.

Administrative determinations:

1. The property is in the SR-3 zone and must comply with the dimensional standards of Section 30-15, Table 1 for a pre-1953 lot (see chart below).

SR-3 Zone	Required/Allowed	Existing	Proposed
Lot size	7,000 sq. ft.	4,950 sq. ft.	No change
Frontage	70 feet	55 feet	No change
Setbacks			
• Front	25 feet	28.6 feet	No change
• Side	7.5 feet	5.4 feet	No change
• Rear	15 feet	18.7 feet	No change
FAR	.35	.61*	.63
Building Height	30 feet	26.21 feet	No change
Max. No. of Stories	2.5	3*	No change
Max. Lot Coverage	30%	23.2%	No change
Min. Open Space	50%	63%	No change

* Due to the contours of the existing lot, the lower level of the existing house does not meet the City's definition of a basement. It is, therefore, considered a story and is counted in the calculation of Floor Area Ratio.

2. The subject property is legally nonconforming with respect to lot size, frontage, side yard setback and number of stories. Since none of these dimensions will change with the proposed project, no zoning relief is needed for these dimensional standards.

3. The subject property is also legally nonconforming with respect to Floor Area Ratio. The proposed project will increase this nonconformity. The proponent needs a Special Permit from the Board of Aldermen under Sections 30-21(a)(2)(b), 30-21(b) and 30-15 Table 1, Footnote 5.
4. See "Zoning Relief Summary" below:

<i>Zoning Relief Summary</i>		
<i>Ordinance</i>	<i>Site</i>	<i>Action Required</i>
§30-21(a)(2)(b), 30-15(u)(4)	Increase nonconformity with respect to FAR	SP per §30-24

Plans and materials reviewed:

- "Topographic Site Plan, Newton, Massachusetts showing proposed conditions at #22 Walter Street," dated August 10, 2009, stamped and signed by Joseph R. Porter, Professional Land Surveyor
- "Area Plan of Land, Newton, Massachusetts at #22 Walter Street," dated August 4, 2009, stamped and signed by Joseph R. Porter, Professional Land Surveyor